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STATE PASS USTR FOR B. WEISEL AND J. JENSEN
USDOC FOR 4430/MAC/EAP/J. BAKER
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TAGS: [KIPR](#) [ETRD](#) [MY](#)
SUBJECT: MEET THE FTA NEGOTIATORS: PART 2

REF: KL 0678

¶1. (SBU) Introduction: Many of Malaysia's lead negotiators for the different FTA chapters took part in our Trade and Investment Framework (TIFA) discussions, but others are new faces. Econ counselor and econoffs are calling on all of the new negotiators to take their measure in advance of the negotiation. Reftel reported on the first round of calls.

Intellectual Property -----

¶2. (SBU) The Malaysian government's list of FTA negotiators gives the lead for the IPR chapter to Haji Shuib Mohamad Yusof, Director General of the Malaysian Intellectual Property Corporation (MyIPO). However, it appears that Director for Planning and Policy Siti Eaisah Mohamad (goes by Siti Eaisah) will be the real negotiator. Shuib attended the University of Michigan and Siti Easiah attended the University of Indiana. Siti Eaisah represented Malaysia in the TIFA discussions and also has participated in Malaysia's FTA negotiations with Australia and New Zealand. Shuib deferred to her in the meeting with econoffs.

¶3. (SBU) Econoffs asked Siti Easiah which IPR areas she thought would be the most difficult, but she was reluctant to discuss Malaysia's position in advance of the negotiations. Pressed to suggest areas where the U.S. might need to be more flexible, she suggested patent term restoration, copyright term, and "anything that might go beyond TRIPS, as such changes will need to go to parliament." She asserted that Malaysia's IPR regime conforms to the requirements of most international treaties, but said the Malaysian government would hesitate to adhere to new agreements in order to maintain its "policy space." In particular, she noted that adherence to the Convention on New Varieties of Plants would be difficult and argued that Malaysia's "sui generis" approach provides sufficient protection. She said Malaysia has no plans to join the International Union for the Protection of New Varieties of Plants (UPOV), noting concerns that UPOV would not protect traditional plants. Finally, she expressed doubts about taking on new obligations for data exclusivity.

¶4. (U) Siti Easiah said she would not be comfortable engaging in discussions via DVC. She said she wanted to observe the body language of her opposite negotiator and felt she could not do this via DVC.

¶5. (SBU) Comment: Siti Easiah's attitude suggested that she sees her part of the negotiations as a zero sum game. She acknowledged that more senior officials would make tradeoffs within the overall framework of the negotiations, but

indicated that her goal is to maintain the status quo for IPR. She saw no potential for positive gains to her position, apart from capacity building, which the USG already has offered to Malaysia.

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